IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4797 OF 2005

Sanjay Sitaram Khemka .. Applicant
Vs.
State of Maharashtra & Ors. .. Respondents

WITH

CRIMINAL APPLICATION NO.4846 OF 2005

Sampatraj Adania .. Applicant.
Vs.
State of Maharashtra & Anr. .. Respondents.

Mr.S.S.Khemka, applicant in person in CA No.4797/05 and respondent no.2 in person in CA No.4846/05.

Mr.Subhash Jha i/b Law Global for respondent no.3 in CA No.4797/05 and for the applicant. in CA No.4846/05.

Mr.R.Y.Mirza A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 3RD AUGUST, 2006

P.C.:

. Heard Sanjay Khemka in person and Mr.Subhash Jha, learned counsel for respondent-Sampatraj Adania and Mr.R.Y.Mirza learned A.P.P. for the State.

2. Both the applications challenge one and the same order dated 15.7.2005 passed on the application Nos.162/N/2005 and 127/N/2005 filed under section 451

of the Code of Criminal Procedure. I am informed that application bearing No.121/N/2005 field by Mr.Sanjay Khemka on 3.3.2005 under section 451 was also pending at the relevant time. I heard the applicant - Sanjay Khemka in both the applications in person and Mr.Jha for the respondent-Sampatraj Adania. Both, the applicant-Khemka and Mr.Jha have fairly stated that I need not record the reasons for setting aside the order dated 15.7.2005 passed on the application nos.162/N/2005 and 127/N/2005 and the parties would be satisfied by the order that I proposed to pass. Hence the following order:

(a) The order dated 15.7.2005 passed below application nos.127/N/2005 and 162/N/2005 by the Special Metropolitan Magistrate, 48th Court, Andheri is quashed and set aside. Both the applications stand restored to file.

(b) The learned Magistrate shall hear and decide, application nos.127/N/2005 and 162/N/2005 with the application of Sanjay Khemka bearing No.121/N/2005 afresh as expeditiously as possible and preferrably within a period of eight weeks from the date of receipt of this order. The learned Magistrate may also hear application/s, if any, under section 451 of the Code of Criminal Procedure alongwith the aforesaid

applications. The learned Magistrate shall give hearing to all the concerned parties while passing the order on the aforesaid applications for return of property under section 451 of the Code and decide all the applications on merits in accordance with law.

. With these directions the applications are disposed of.

(D.B.Bhosale, J.)